

W/027/007
Drum Mine

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July 18, 1991

RECEIVED

JUL 25 1991

DIVISION OF
OIL GAS & MINING

Mr. Don A. Ostler, P.E.
Director
Division of Water Quality
Utah Department of Environmental Quality
State of Utah
Salt Lake City, Utah 84114-4870

Re: Division Letter to Western States Concerning Drum Mine

Dear Mr. Ostler:

This letter is in response to your letter to me, for Western States Minerals Corporation ("Western States"), dated July 8, 1991, which I received on July 12, 1991. In your letter, you indicated that some ground water contamination had been detected at the Drum Mine, and you requested that Western States provide you with information related to whether Western States had any responsibility for this contamination.

Western States wishes to cooperate with the Division in their investigation. However, as an initial matter and in response to your request for Western States' position on the points raised in your letter, Western States believes that it is not legally liable for any contamination at the Drum Mine. At the time Western States sold the Drum Mine to Jumbo (October 12, 1988), the Drum Mine was not an "existing facility" as contemplated by the ground water regulations, Utah Admin. Code R448-6-1, et seq., nor could it have been until February 10, 1990. Those regulations, moreover, specifically indicate that only ground water permittees and operators are responsible for remediating any ground water contamination under the new ground water program. Utah. Admin. Code R448-6-6.14("permittee and operator may be required to take corrective action to clean up the ground water and mitigate any adverse effects"). This conclusion is underscored by the Preamble to the ground water regulation which discusses precisely how contamination resulting from a pre-ground-water-regulations release is to be handled: "For existing facilities, there would have to be a plan to remedy

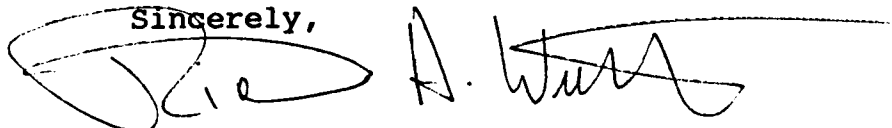
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violations of standards which may have resulted from discharges occurring prior to issuance of the ground water discharge permit." Preamble to the Ground Water Quality Protection Regulations of the State of Utah § 2.4. In light of these regulatory directives, Western States sees no basis for the conclusion that it is a "potentially responsible party" in this matter.

Nevertheless, as noted above, Western States wishes to cooperate with the Division. In the spirit of that cooperation, Western States has reviewed all of the documents in its possession. That review was facilitated by the fact that all of Western States' documents were assembled for discovery in its litigation with Jumbo; that litigation involves Western States' claim that Jumbo is responsible for all reclamation related to the Drum Mine. After reviewing those documents, Western States could find nothing that would indicate that Western States is responsible for the ground water contamination mentioned in your letter. Most of Western States' records, such as ground water monitoring data, already appear to have been given to Jumbo when the property was sold. Western States also sought information from its consultants and found nothing implicating Western States. If you have any records that indicate that Western States may be responsible for some contamination at the Drum Mine, please forward them to me at your earliest convenience.

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Westfall', written over a horizontal line.

Richard A. Westfall
for
DAVIS, GRAHAM & STUBBS

RAW/jlw

cc: Arden B. Morrow
Fred C. Pehrson
Wayne Hedberg
Dan Patterson (for Ed King)